

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **September 13, 2005**

AGENDA ITEM NO.: 7

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Public Hearing Regarding Adoption of the Tinbridge Hill Conservation Plan**

RECOMMENDATION: Following a public hearing, adopt a resolution approving the Lynchburg Redevelopment and Housing Authority (LRHA) request to adopt the Tinbridge Hill Conservation Plan dated December 31, 2004.

SUMMARY:

LRHA staff worked with the Tinbridge Hill Neighborhood Council to develop a Tinbridge Hill Conservation Plan for their neighborhood. Input and support by neighborhood residents played a vital role in the drafting of the Plan and adoption of the Plan would be the next step in achieving the housing goals and objectives developed by the Plan for the neighborhood. The LRHA Commissioners adopted a resolution on June 29, 2005, approving the Plan.

PRIOR ACTION(S):

August 9, 2005 Work Session

FISCAL IMPACT:

None

CONTACT(S):

Edward McCann 845-9011

ATTACHMENT(S):

Resolution; August 9 Report to City Council

REVIEWED BY: lkp

**A RESOLUTION APPROVING THE ADOPTION OF THE TINBRIDGE
HILL CONSERVATION PLAN DATED DECEMBER 31, 2004**

WHEREAS, City Council, acting by and through its Physical Development Committee, authorized a survey of housing and neighborhood conditions located in the Tinbridge Hill neighborhood;

WHEREAS, the investigation indicates, and City Council has determined, that the neighborhood contains blighted, deteriorating properties that are detrimental to and a menace to the health, safety and welfare of the inhabitants and the neighborhood at large;

WHEREAS, the investigation indicates, and City Council has determined, that the neighborhood contains properties which are in violation of the standards for design, construction, maintenance and use of property set out in the conservation plan described below "the conservation plan" for the project in which such property is situated;

WHEREAS, the investigation indicates, and City Council has determined, that the neighborhood contains properties as to which voluntary conveyances cannot be effected in the course of the execution of the conservation plan because of the inability of the owners to convey marketable titles;

WHEREAS, the investigation indicates, and City Council has determined, that the neighborhood contains properties which are infeasible of rehabilitation or because of dilapidation, obsolescence, faulty arrangement or design, street or lot layout, deleterious land use or a combination thereof exert a blighting influence on adjacent properties or prevent proper development of land so as to inhibit or prevent accomplishment of the purposes of the conservation plan;

THEREFORE BE IT RESOLVED that City Council of the City of Lynchburg hereby approves and adopts the Tinbridge Hill Conservation Plan prepared by the Lynchburg Redevelopment and Housing Authority dated December 31, 2004, in accordance with the provisions of Section 36-49.1 of the Code of Virginia;

BE IT FURTHER RESOLVED that the Lynchburg Redevelopment and Housing Authority is hereby empowered to carry out the work and undertaking provided for in the Tinbridge Hill Conservation Plan in accordance with Sections 36-49.1 and 36-50.1 of the Code of Virginia; and

BE IT FURTHER RESOLVED that City Council of the City of Lynchburg hereby designates the area located within the boundaries of the Boundary and Acquisition Map included in the Tinbridge Hill Conservation Plan dated December 2004 as a Conservation Area.

Adopted:

Certified:

Clerk of Council

126P

Report To City Council

Tinbridge Hill Conservation Plan

Authority staff began working with the Tinbridge Hill Neighborhood Council last summer to develop a Tinbridge Hill Conservation Plan (The Plan) for their neighborhood. Input and support by neighborhood residents played a vital role in the drafting of the Plan. The proposed adoption of The Plan and subsequent Conservation Area designation would be the next steps in achieving the housing goals and objectives developed by the Tinbridge Hill Neighborhood Council in the Tinbridge Hill Neighborhood Plan, dated October 1996.

A draft of the Tinbridge Hill Conservation Plan was presented to the Tinbridge Hill Neighborhood Council and the Fifth Street Community Development Corporation (CDC) for review and comment prior to being considered for adoption by the Authority's Board of Commissioners. Revisions to The Plan were made based on suggestions by the CDC and city planning staff. The Authority's Commissioners adopted a resolution approving The Plan at the board meeting on June 29, 2005, and authorized staff to request City Council schedule a public hearing to consider adoption of The Plan.

The area encompassed in the proposed Tinbridge Hill Conservation Plan is outlined on the Boundary and Acquisition Map dated December 2004, that is included in the enclosed Tinbridge Hill Conservation Plan. It is mainly a residential neighborhood, but also has larger businesses located within it and is bordered by Centra Health's Johnson Community Health Center. In addition, a small section of the Garland Hill Historic District along Harrison Street between First Street and shortly before McKinley Street is located in the proposed Tinbridge Hill Conservation Area.

Authority staff conducted field inspections of the area parcel by parcel, and Lynchburg Neighborhood Development Foundation staff also completed a survey of the Tinbridge Hill area. Inspection and survey results concurred by the City's building inspections staff revealed that there are approximately 453 properties in the area and approximately 248 of these are housing units. Approximately 55 units have serious deficiencies. Some 151 housing units are of such low value (less than 50% of the median for the City as a whole) that government assistance may be required to achieve improvement in their deteriorated conditions. There are approximately eight vacant, deteriorated dwellings and over 150 vacant lots, approximately 10 of which have unclear titles that may require acquisition through the eminent domain process to obtain clear, insurable titles. Some of the lots are too small to build houses on based on current code requirements, but could be consolidated into developable lots. The topography of some of the vacant lots has steep terrain and poses a challenge for development.

In accordance with Section 36-49.1 of the Code of Virginia, City Council shall conduct a public hearing prior to the approval of a conservation plan for an area it deems as deteriorating and blighted. Section 36-48 of the Code of Virginia defines an area as eligible for conservation when:

- There exists a blighted area that impairs economic values and tax revenues, causes an increase in and spread of disease and crime and constitutes a menace to the health, safety, morals and welfare of the residents of the Commonwealth.
- The clearance and conservation, replanning, rehabilitation and reconstruction of such blighted areas and the sale or lease of land and the acquisition of land within such areas for redevelopment in accordance with locally approved redevelopment plans are necessary for public welfare and are public uses and public purposes for which public money may be spent and private property acquired by purchase or the power of eminent domain, and are governmental functions of grave concern to the Commonwealth.
- There are also certain areas where the condition of title, diverse ownership of the land to be assembled, the street or lot layouts, or other conditions prevent a proper development of the land and that it is in the public interest that such areas, as well as blighted areas, be acquired by eminent domain and made available for sound and wholesome development in accordance with a redevelopment plan and that the exercise of the power of eminent domain and the financing of acquisition and preparation of the land by a public agency for such redevelopment is likewise a public use and purpose.

Upon adoption of the proposed Conservation Plan and pursuant to Section 36-49.1 of the Code of Virginia, the Authority is empowered, among other things, to do the following in order to carry out the goals and objectives of The Plan:

- To acquire property within such areas which is blighted, designated for public use in the conservation plan, or the use or condition of which is inconsistent with the purposes of the conservation plan or the provisions of the zoning ordinance or code of the City;
- To rehabilitate or clear property so acquired; and
- To make land or improvements available to private enterprise or public agencies by sale, lease or retention of ownership by the Authority itself.

In addition, the Authority shall only exercise its power of eminent domain in the Conservation Area pursuant to Section 36-50.1 of the Code of Virginia to:

- Acquire properties designated for public use in the conservation plan; or
- Acquire properties which are determined by the Authority to be in violation of the standards for design, construction, maintenance and use of property set out in the conservation plan for the project in which the property is situated, and which have not been made to comply with such standards within one year after a written request to rehabilitate the property to project standards is given to the owner by the Authority; or
- Acquire properties as to which voluntary conveyance cannot be effected in the course of the execution of the conservation plan because of the inability of the owners to convey marketable title; or
- Acquire properties which are infeasible of rehabilitation or because of dilapidation, obsolescence, faulty arrangement or design, street or lot layout, deleterious land use or a combination thereof exert a blighting influence on adjacent properties or prevent proper development of land so as to inhibit or prevent accomplishment of the purposes of the conservation plan.

Section 36-27 of the Code of Virginia which addresses eminent domain powers of the Authority also requires the Authority to send a notice by certified mail to at least one owner of every parcel identified in The Plan as potential property subject to acquisition by the Authority. The notice informs the property owner of the date and time City Council will consider adoption of The Plan. It also states that the property owner has the right to appear in any condemnation proceeding instituted to acquire the property and present any defense that the owner may have to the taking. In accordance with this section of the Code and in preparation for consideration by City Council, notices have been sent to owners of property identified as potential property for acquisition. Please refer to the Boundary and Acquisition Map in The Plan for specific parcels.

As required by Section 36-51.1 of the Code of Virginia, the Tinbridge Hill Conservation Plan provides an outline for the conservation, development and redevelopment of the area affording maximum opportunity for conservation, rehabilitation or redevelopment by private enterprise that is consistent with the standards

of The Plan. It is compatible with the local goals and objectives such as land uses and public improvements contained in the City of Lynchburg's Comprehensive Plan, 2002-2020 which refers to the area as a Traditional Residential neighborhood. The Plan also includes conditions and limitations concerning the acquisition of property and disposition of it for rehabilitation or redevelopment by public or private enterprise, as well as proposed land uses for properties to be acquired. It provides standards of design, construction, maintenance and use of the property and other measures to be taken or recommended toward elimination and the prevention of blight. Relocation, administrative review and amendment procedures are covered as well. Upon adoption by Council, The Plan would be in effect until December 31, 2034.

Enclosed are copies of the proposed Tinbridge Hill Conservation Plan and resolution adopted by the Authority's commissioners. Authority staff will be available to discuss The Plan and answer questions at the Council's work session on August 9, 2005.

enclosures

**A RESOLUTION APPROVING THE ADOPTION OF THE TINBRIDGE
HILL CONSERVATION PLAN DATED DECEMBER 2004**

WHEREAS, the Commissioners of the Lynchburg Redevelopment and Housing Authority authorized a survey of housing and neighborhood conditions located within the boundaries of the Tinbridge Hill area; and

WHEREAS, the investigation indicates and the Commissioners have determined that the neighborhood contains blighted and deteriorated properties that are detrimental and a menace to the health, safety and welfare of the inhabitants and the locality at large; and

WHEREAS, the investigation indicates and the Commissioners have determined that the neighborhood contains properties which are in violation of the standards for design, construction, maintenance and use of property set out in the conservation plan for the project in which such property is situated; and

WHEREAS, the investigation indicates and the Commissioners have determined that the neighborhood contains properties as to which voluntary conveyance cannot be effected in the course of the execution of the conservation plan because of the inability of the owners to convey marketable title; and

WHEREAS, the investigation indicates and the Commissioners have determined that the neighborhood contains properties which are infeasible of rehabilitation or because of dilapidation, obsolescence, faulty arrangement or design, street or lot layout, deleterious land use or a combination thereof exert a blighting influence on adjacent properties or prevent proper development of land so as to inhibit or prevent accomplishment of the purposes of the conservation plan;

THEREFORE BE IT RESOLVED that the Commissioners of the Lynchburg Redevelopment and Housing Authority adopt the Tinbridge Hill Conservation Plan dated December 2004;

BE IT FURTHER RESOLVED that the Commissioners of the Lynchburg Redevelopment and Housing Authority authorize and direct the Executive Director of the Authority to request that City Council of the City of Lynchburg hold a public hearing to consider the Authority's request that City Council adopt the Tinbridge Hill Conservation Plan dated December 2004 in accordance with the provisions of Section 36-49.1 of the Code of Virginia.

TINBRIDGE HILL CONSERVATION PLAN

Lynchburg Redevelopment and Housing Authority

December 31, 2004

CONSERVATION PLAN FOR TINBRIDGE HILL

LYNCHBURG, VIRGINIA

The Conservation Plan for Tinbridge Hill constitutes the Plan for conservation and development of the Conservation Area. The Plan consists of 11 pages and 3 exhibits.

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A. Description of Conservation Area

The Tinbridge Hill neighborhood was established prior to the 1950's and was comprised primarily of low income, working families who owned their homes. The neighborhood continues to be mainly residential, but has experienced an increase in rental properties and vacant lots. An increase in substandard housing has been a result of these changes in the community accompanied by an increase in drug and criminal activity.

Larger businesses such as Adams Motors and Community Funeral Home are located in the neighborhood, and Centra Health's Johnson Community Health Center borders it on Federal Street. The neighborhood is proud to have several churches, the Lynchburg Old City Cemetery and Legacy Museum. Most of the community activities are held at the Yoder Community Center including a variety of youth programs.

The Tinbridge Hill Neighborhood Council was formed in 1990 by a group of concerned citizens who developed a plan to revitalize the neighborhood. The Tinbridge Hill Neighborhood Watch group, a Youth Incentive Program and Lead Hazard Awareness Campaign were created through revitalization efforts by the Council. The Council received a 501 (c)(3) non-profit status and has made great strides in revitalization that include partnerships with the city and other non-profit agencies to improve housing and decrease drug and criminal activity. The Council continues to meet on a monthly basis and designation of the neighborhood as a Conservation Area is the next goal the Council hopes to achieve as it moves forward with the community's revitalization.

Boundary Description - Tinbridge Hill

Beginning at the intersection of the northwest line of Fifth Street with the southwest line of Federal Street and thence following the southwest line of Federal Street in a northwestern direction to its intersection with the southeast line of First Street; thence in a northeastern direction along the southeast line of First Street to its intersection with the southwest line of Harrison Street; thence in a northwestern direction along the southwest line of Harrison Street, and crossing Garland Street, a distance of 540 feet more or less to the terminus of the southwest line of Harrison Street; thence in a generally northeastern direction along a line that includes the end line of Harrison Street and the rear lines of property designated on the current Tax Valuation Map for the City of Lynchburg (herein referred to as the "Tax Valuation Map") as Tax Parcel Nos. 023-32-033 and 023-32-035 through 023-32-039, inclusive, to a point in the former southwest right-of-way line of the Norfolk & Western Railroad (now owned by the City of Lynchburg); thence continuing on a curve to the left along the last mentioned right-of-way line in a northwesterly direction to its intersection with the northeast line of property designated on the Tax Valuation Map as Tax Parcel No. 023-32-045; thence on a line that runs along the rear boundary line of property designated on the Tax Valuation Map as Tax Parcel No. 023-32-045 and then proceeds in a northwest direction across the former right-of-way line of the Norfolk & Western Railroad (now owned by the City of Lynchburg) and along the rear lines of property fronting on the northeast line of McIvor Street designated on the Tax Valuation Map as Tax Parcel Nos. 008-19-006, 008-19-008, 008-19-044, 008-19-009 through 013, inclusive, and 008-

19-016 to a point in the southeast line of property designated on the Tax Valuation Map as Tax Parcel No. 008-19-003 now owned by the City of Lynchburg; thence along this last mentioned property line in a southwest direction to a point in the northeast line of Melvor Street; thence along the northeast line of Melvor Street in a northwest direction to its terminus; thence in a northeast direction, and along the northwest line of property designated on the Tax Valuation Map as Tax Parcel No. 008-19-003 now owned by the City of Lynchburg, which line continues across Blackwater Creek to a point in the southwest line of Blackwater Street; thence in a northwestern direction along the southwest line of Blackwater Street, crossing Hollins Mill Road, to a point in the northwest line of property designated on the Tax Valuation Map as Tax Parcel No. 008-020-001; thence along a line that follows the northwest, west and southwest lines of property designated on the Tax Valuation Map as Tax Parcel Nos. 008-20-001 and 008-20-005 to a point in the former Norfolk & Western Railroad right-of-way line (now owned by the City of Lynchburg); thence continuing along the last mentioned right-of-way line in a northeast direction to the southwest line of Hollins Mill Road; thence in a southeast direction along the southwest line of Hollins Mill Road to a point in the southeast line of the former right-of-way line of Norfolk & Western Railroad (now owned by the City of Lynchburg); thence along the last mentioned right-of-way line in a general southwest direction, and along the rear of properties fronting on the northwest side of Hollins Street, to a point in the common dividing line of property designated on the Tax Valuation Map as Tax Parcel No. 009-02-002 and property now or formerly owned by Norfolk Southern Corporation (and now owned by the City of Lynchburg) designated on the Tax Valuation Map as Tax Parcel No. 003-25-002; thence along the last mentioned common dividing line to a point in the northwest line of Hollins Street; thence continuing along the northwest line of Hollins Street in a southwest direction to its terminus and then turning in a southeast direction across the end line of Hollins Street and along the rear lines of properties fronting on the southwest line of Taylor Street and designated on the Tax Valuation Map as Tax Parcel Nos. 009-07-001 through 007, inclusive, to a point in the northwest line of Garland Street; thence continuing along the northwest line of Garland Street in a southwest direction to its terminus and then across the end line of Garland Street and continuing in a southern direction along the common dividing line of property now or formerly owned by Norfolk Southern Corporation and the west line of property known as the Old City Cemetery (Tax Parcel No. 009-27-001) and then continuing along the right-of-way line of property formerly owned by Norfolk Southern Corporation and now owned by the City of Lynchburg (Tax Parcel No. 003-25-002) to its intersection with the southwest line of Fillmore Street; thence crossing Fillmore Street and then continuing in a southern direction along the common dividing line of the right-of-way line of property formerly owned by Norfolk Southern Corporation and now owned by the City of Lynchburg (Tax Parcel No. 003-25-002) and the western line of property designated on the Tax Valuation Map as Tax Parcel No. 003-25-008 to a point in the northwest line of Fifth Street; thence in a northeast direction, and along the northwest line of Fifth Street, to the point of beginning.

B. DEVELOPMENT GOALS AND OBJECTIVES

The local goals and objectives to be achieved in this Conservation Area are the elimination of blight and deterioration and blighting influences, the rebuilding of a predominately residential community providing housing opportunities and supportive services and amenities for persons of low and moderate income and the rehabilitation of deteriorating residential structures to extend the functional and economic lives of such structures.

C. General Land Use Plan

The attached Land Use Map dated December 2004, depicts existing land use areas that are permitted in the Conservation Plan. Such uses may include Traditional Residential, Recreational/Public, Institutional and Commercial. As referenced in the city's Comprehensive Plan dated 2002 - 2020, Traditional Residential characterizes older neighborhoods in the city that were built before World War II and prior to the city's Zoning Ordinance. Many of the houses, lot sizes, setbacks and/or building heights do not conform to the zoning ordinance requirements of the city's residential zoning districts. Infill development should be designed to blend into the existing urban fabric through landscaping or architectural treatments so the community's history and design characteristics are respected. This Plan may be amended as stated in Section F should any future zoning ordinance changes conflict with the Land Use Provisions and Regulations stated herein.

1. Land Use Provisions and Regulations

The following land use provisions and regulations apply to property acquired by the Authority and disposed of for development or redevelopment within the Tinbridge Hill Conservation Area as outlined in the Land Use Map.

- a. No land or building shall be used for hotels, motels, rooming houses or other similar housing for transient use.
- b. A developer shall use land within the Conservation Area only for those uses and within the range of development densities specified in this Plan.
- c. All open areas, public and private, including parking areas, shall be landscaped with plantings, walks, grass or similar features. A plan for the landscaped area shall be submitted to the Lynchburg Redevelopment and Housing Authority (sometimes referred herein as the "Authority") which will determine its adequacy.
- d. All property subject to the provisions of this Plan shall be maintained in a state of good repair. All finished surfaces shall be maintained to prevent flaking, peeling paint, and excessive weathering. No abandoned or unregistered vehicles shall be permitted to remain on any real property, public or private.

- e. All surface areas used for off-street parking shall be paved with an all-weather treated surface and all parking spaces shall be clearly delineated and identified. This regulation shall not apply to single-family residential use.
- f. Sanitary and waste refuse storage and collection facilities shall be provided on the lot or parcel and shall be screened from view. Such storage and collection facilities shall be of a type that is animal and vermin-proof. Litter depositories in pedestrian areas should be designed to withstand normal weather conditions and be unobtrusive to casual observation.
- g. Easements shall be reserved as necessary and no structure, temporary or permanent, shall be constructed thereon and no substantial changes to grades within such easements shall be permitted without the prior written consent of the Authority and, if necessary, the City of Lynchburg.
- h. Where off-street parking is required, it shall be in the amount of not less than 350 square feet per space including drives and having adequate access to a public street and, as appropriate, parking medians adequate to support trees and/or other plantings, adequate aisles for vehicular circulation and maneuvering. For residences the parking shall be located on the site occupied by the main building.
- i. Off-street loading spaces shall be required for all commercial and appropriate residential and public uses and shall be adjacent to the building served and have direct access to but should not interfere with the use of a public street or alley. Off-street loading spaces shall be used for no other purposes, such as parking or storage, than its intended use.
- j. Lighting of all property shall be designed to prevent visual glare to a dwelling unit or to motor vehicle operators. Public walks and malls, plazas or parking areas shall be illuminated to permit the walkway system to function without being intrusive to adjacent residences and to provide for the safety and comfort of persons using them.
- k. All land not covered with buildings or surface treatment shall be landscaped with planting or grass and shall be maintained in reasonable condition.
- l. Proposals for the development of specified parcels for any use shall be evaluated by the Lynchburg Redevelopment and Housing Authority based on the following criteria:
 - 1. The degree to which the proposed development meets program objectives.
 - 2. The quality of specific site and building design, and overall harmony of design throughout the Conservation Area.
 - 3. Adequacy of vehicular access, circulation and off-street parking.

4. Provisions for the safety and convenience of pedestrians.
 5. Financial capability and responsibility of the developer.
 6. Time schedule for completion of development.
 7. Previous experience with Authority development programs.
- m. The Lynchburg Redevelopment and Housing Authority specifically reserves the right to review and approve all detailed plans and specifications, including signs, with respect to their conformance with the provisions of the Conservation Plan and such design controls as may be promulgated and made a part of disposition procedures by the Authority. Preliminary sketch drawings of site plans, access, parking, loading, landscape treatment and improvements shall be submitted to the Authority for review and its approval gained before final drawings are made. Final drawings shall be submitted to the Authority for review and its approval gained prior to the conveyance of the parcel to the developer. In addition, approval of all exterior plans must be obtained from the Lynchburg Historic Preservation Commission and submitted to the Authority.

2. Residential Area Regulations

The Plan is intended to encourage considerable variety in housing types and no land or building shall be used except for single and two-family detached, single-family attached, or town houses, in accordance with the regulations herein.

a. Single-Family and Two-Family Detached Dwelling Units

1. A lot or parcel or combination of lots or parcels shall be used only for single-family and/or two-family detached residences.
2. Permitted dwelling unit density shall not exceed 8 units per acre.
3. No building shall exceed a height of two and one-half stories or 40 feet or where the lot size permits, maximum height shall be one-half the distance to the nearest line.
4. No building shall be erected on any lot or parcel or combination of lots or parcels containing less than 4,000 square feet of land area per dwelling unit or less than 8,000 square feet in any lot or parcel.
5. The maximum ground area covered by any building or combination of buildings shall not exceed 30 percent of the area of the lot or parcel.
6. Setback of buildings from property lines of a specific lot or parcel shall be in accordance with the following schedule:

Front yard - not less than 30 feet

Side yard - not less than 8 feet

Rear yard - not less than 30 feet

The front setback for infill new construction can be the average of the existing dwellings within the block.

7. Two off-street parking spaces shall be provided on the lot or parcel for each dwelling unit.

8. A lot or parcel on record as of December 12, 1978, that previously had a dwelling unit located on it and that has less width than required can have a single-family dwelling or an addition to an existing single-family dwelling built on it, and the side yard setback requirement can be reduced by fifty percent (50%) and the rear yard setback can be reduced by twenty-five percent (25%).

b. Townhouse Dwelling Units

All property within the Traditional Residential Use Area for single-family attached dwelling units is to be developed in accordance with an overall development plan. Such development will be subject to land use provisions and building requirements specified herein by application of the provisions. A residential building is defined as one containing two or more attached townhouse dwelling units.

1. A lot or combination of lots or parcels shall be used only for single family residences.

2. Permitted dwelling unit density for single-family townhouse residences shall not be more than ten (10) dwelling units per acre inclusive of related parking, public streets and pedestrian walkways designed to serve the single family development.

3. No building shall exceed a height of two and one-half stories or 40 feet.

4. Lot area for townhouse dwelling units shall not be less than 1,200 square feet per unit. Minimum width of lots shall not be less than 16 feet within the same group or residential building.

5. Setbacks of buildings from property lines within a development parcel shall be in accordance with the following schedule:

a. For buildings fronting on a public street, the front yard shall not be less than 10 feet from the street right-of-way. All buildings shall have a setback of not less than 10 feet from any paved area.

- b. When more than one residential building is constructed on the same development parcel the minimum distance between opposing walls of such buildings shall not be less than 40 feet, except where windowless walls are in opposition, the minimum distance between such walls shall not be less than a distance equal to their overlap but in no event shall the distance between any buildings be less than 20 feet.
 - c. The minimum distance between a residential building and a non-residential building shall be 50 feet.
 - d. No residential building shall be closer than 15 feet to any boundary line of the parcel.
 - e. The facades of townhouses dwelling units shall be varied by changed front yards (i.e. offsets of not less than 3 feet) and variation in materials or design so that no more than 3 abutting units will have the same front yard depth and the same or essentially the same architectural treatment of facades and roof lines.
 - f. No more than nine (9) dwelling units shall be united to form a residential building unit. Building lengths should vary.
- 6. Two and one half (2.5) off-street parking spaces to comply with the existing City of Lynchburg zoning ordinance shall be provided for each dwelling unit. Such off-street parking space shall not be located in any required front yard, and shall be within 150 feet of the dwelling unit.
- 7. Common open space of the development parcel shall be developed to complement the public pedestrian walkways and, to the extent possible, unite the dwelling unit cluster development.
 - a. All deeds issued to purchasers of residences in an aggregate development parcel with common open space shall require creation of "Homeowners Association", or similar organization which shall permanently maintain any commonly held open space.
 - b. Landscaping of common open space and yard areas shall include a variety of trees and shrubs with varying degrees of maturity selected to provide a variety of seasonal interest. All unpaved areas shall be sodded, grassed or planted with groundcover.
- 8. The total proportion of the gross aggregate development area which may be covered with a building or buildings shall not exceed 30 percent, excluding garages, storage buildings or other accessory buildings.

9. The total proportion of the individual lot or parcel which may be covered shall not exceed 30 percent provided, that the following yard requirements are observed:

a. There shall be a front yard depth of not less than 10 feet.

b. There shall be a rear yard depth of not less than 35 feet.

3. Recreational Area Regulations

No change in the current use of land by recreational establishments is proposed.

4. Institutional Area Regulations

No change in the current use of land by institutional establishments is proposed.

5. Commercial Area Regulations

No commercial development has been proposed at this time. Existing businesses and commercial buildings shall be used in a manner that complies with zoning and not create a nuisance or hazard.

6. Time Limit On Regulations

The above-stated regulations and land use provisions, including any amendments thereto, shall be in full force and effect until December 31, 2034.

7. Applicability of Regulations

The provisions, requirements and regulations set forth herein are to apply to all real property acquired and disposed of by the Lynchburg Redevelopment and Housing Authority within the conservation area boundaries. Such regulations and land use provisions shall be made applicable to real property not to be acquired by the Authority whenever the owner thereof acquires any conservation area land; provided, such "not to be acquired" property is not developed so as to preclude compliance with regulations and controls. It is further provided that, notwithstanding such state of development, the attached Housing Quality Standards, together with the land use, maintenance, and sign controls shall be applicable to all real property within the Conservation Area.

D. PROJECT PROPOSALS

1. Real property within the conservation area shall be acquired for the following purposes:

- a. Unimproved real property within the Conservation Area may be acquired for the purpose of development of new housing for occupancy by lower-income families.
 - b. Improved real property within the Conservation Area may be acquired for the purpose of rehabilitation and re-sale for single-family homeownership and multi-family use.
 - c. It may be necessary to acquire certain properties for rehabilitation when the owners thereof refuse or do not have the financial capability to bring their property into compliance with the Housing Quality Standards. Written request to rehabilitate substandard property proposed for acquisition shall be sent to owners who will be given one year to rehabilitate to project standards. Subsequently, the Authority may exercise its power of eminent domain to acquire properties that are not rehabilitated to project standards. Definite determination as to which properties may actually be acquired cannot be made until the program has been in effect at least 1 year.
 - d. Improved real property within the Conservation Area, acquired for the purpose of rehabilitation and determined to be infeasible of rehabilitation, may be cleared to permit the development of new housing for occupancy by lower-income families.
 - e. Improved real property within the Conservation Area that is infeasible of rehabilitation or because of dilapidation, obsolescence, faulty arrangement or design, street or lot layout, deleterious land use or a combination thereof exerts a blighting influence on adjacent properties or prevent proper development of land so as to inhibit or prevent accomplishment of the purposes of the conservation plan, may be cleared to permit the development of new housing for occupancy by lower-income families.
2. The areas identified as rehabilitation areas on the Boundary Map, dated December 2004, have been designated for rehabilitation with only spot clearance. No non-residential rehabilitation is planned at this time.
3. Any developer shall be subject to the following conditions which shall be imposed by appropriate covenants on the land or other provisions in the sale of documents.
 - a. The developer shall begin and complete the development within the time specified in the sale documents.
 - b. The developer shall retain the interest acquired until the completion of improvements, construction and development.
 - c. The developer shall not discriminate upon the basis of race, color, religion, sex or national origin in the sale, lease, or rental or in the use or occupancy of the property or any improvements located or to be erected thereon, or any part thereof.

d. The developer shall devote the property only to and in accordance with the uses specified in the Plan.

e. The developer shall comply with the regulations issued by the secretary of Housing and Urban Development, and all applicable rules and orders issued thereunder, which prohibit the use of lead-based paint in residential structures undergoing federally-assisted construction or rehabilitation and require the elimination of lead-based hazards.

4. Increased homeownership opportunities for residents occupying rental properties in the area shall be encouraged through the use of financial and technical assistance.

E. OTHER PROVISIONS NECESSARY TO MEET STATE LAW

The Conservation Plan is based on the following conditions:

1. The Conservation Area is substandard by reason of dilapidation, obsolescence, deterioration of structures, poor street alignment, and other conditions detrimental to public health, safety, morals or welfare of the citizens of the City of Lynchburg.
2. The area is appropriate for clearance and conservation by the necessity to remove and prevent blight and blighting influences.
3. Proposed land uses within the area are in conformity with the land uses in the Comprehensive Plan for the City of Lynchburg.
4. The Conservation Plan indicates the proposed land uses, building and rehabilitation requirements for the area.
5. The Conservation Plan provides for the realization of local objectives with respect to health, safety, morals, and welfare of the City of Lynchburg including:
 - a. The removal or prevention of blight or blighting influences. Based on an exterior survey and concurrence by the building inspections department of the City of Lynchburg, it has been determined that the area is blighted and deteriorated because of the following building and environmental deficiencies:
 - i. The area contains approximately 453 properties and approximately 248 housing units. Approximately 65 units having critical deficiencies.
 - ii. Some 151 housing units are of such low value (less than 50% of the median for the City as a whole) that government assistance may be

required to achieve improvement in the deteriorated conditions of such units.

iii. Approximately 30 vacant lots with unclear titles may require acquisition through the eminent domain process to obtain clear, insurable titles.

b. Elimination of unsanitary and unsafe living conditions and detrimental environmental conditions will protect economic values and tax revenues through the upgrading of a blighted residential area. Conservation and rehabilitation of this area will assure its preservation as a residential neighborhood.

c. Facilitating the development of land inhibited by diverse and absentee ownership. The ownership pattern has made it difficult to overcome the basic environmental deficiencies affecting the area.

6. Efforts shall be taken by the Authority to minimize the need to displace families. Should relocation be necessary, The Department of Housing and Urban Development's Handbook entitled HUD Handbook 1378, Tenant Assistance, Relocation and Real Property Acquisition procedures shall be followed.

F. PROCEDURES FOR CHANGES IN APPROVED PLAN

The Conservation Plan may be amended from time to time upon compliance with the requirements of law and outstanding covenant provisions, provided that prior to passage of any resolution amending the Conservation Plan, the owner of any land in the Conservation Area previously sold by the Lynchburg Redevelopment and Housing Authority for use in accordance with the Plan, shall receive at least thirty (30) calendar days prior to the consideration of such resolution by City Council, written notice of the time and place of such City Council meeting where a copy of the proposed amendments and a precise description of the proposed changes may be inspected.

HOUSING QUALITY STANDARDS

1. LIVING ROOM

1.1 Living Room Must Be Present

Note: If the unit is an efficiency apartment, consider the living room present.

1.2 Electricity

Two outlets permanently installed in the baseboard or one outlet and one permanently installed ceiling or wall light fixture are required. A single duplex receptacle does not count as two outlets.

The outlets and the permanently installed ceiling light must be working. Usually a room will have sufficient lights or electrical appliances plugged into outlets to determine workability.

Do not count any of the following items or fixtures as outlets/fixtures: table or floor lamps (these are not permanent light fixtures); ceiling lamps plugged into socket, extension cords.

1.3 Electrical Hazards Must Be Corrected.

Examples of what this means: broken wiring; noninsulated wiring; frayed wiring; improper types of wiring, connections or insulation; wires lying in or located near standing water or other unsafe places; light fixture hanging from electric wiring without other firm support or fixture; missing cover plates on switches or outlets; badly cracked outlets; exposed fuse box connections; overloaded circuits evidenced by frequently "blown" fuses and/or insufficient electrical service.

1.4 Security

Unit must be accessible to outside which means: doors open to the outside or to a common public hall; windows with sills less than 6' off the ground; windows or doors leading onto a fire escape, porch, or other outside place that can be reached from the ground.

"Lockable: means: the window or door has a properly working lock.

1.5 Windows should be openable and weathertight and should be free of deterioration; i.e., cracks, rotted frames, etc.

Deterioration includes: window that no longer has the capacity to keep out the wind and rain or is a cutting hazard; i.e., missing or broken panes, dangerously loose cracked panes; windows that will not close; windows that when closed, do not form a reasonably tight seal; windows that show aging, abuse, or lack of repair; minor crack in window pane; splintered sill; signs of rotting in the window itself; window panes loose because of missing window putty.

1.6 Ceiling Condition

All ceilings must be sound with no cracks, holes, etc.

Unsound or hazardous includes: serious defects such that the structural safety of the building is threatened; such as severe buckling, bulging or leaning; damaged or loose structural members; small, shallow or large holes; air infiltration; loose or missing parts; cracks; unpainted surfaces; peeling paint (for peeling paint see item 1.9).

1.7 Wall Condition

Walls must be sound with no holes, cracks, loose or missing parts, unpainted surfaces; peeling paint.

Unsound or hazardous includes: serious defects such that the structural safety of the building is threatened; such as severe buckling, bulging or leaning; damaged or loose structural members; small, shallow or large holes; air infiltration; loose or missing parts; cracks; unpainted surfaces; peeling paint (for peeling paint see item 1.9).

1.8 Floor condition

All floors must be sound and free of hazardous defects.

Unsound or hazardous means the presence of such serious defects that a potential exists for structural collapse or other threats to safety (i.e. tripping) or that large cracks or holes allow substantial drafts from below the floor. The condition includes: severe buckling or major movements under walking stress; damaged or missing parts; heavily worn or damaged floor surface (for example, scratches or gouges in surface, missing portions of tile or linoleum, previous water damage).

1.9 Lead Paint

Lead paint shall not be used.

Listed below are the locations where lead paint must be removed. Remove all layers of lead paint to the length, width and height as indicated.

... Cracked, chipped, blistered, peeling or other loose lead paint shall be

- completely removed wherever found - holes and cracks in walls must be repaired.
- ... Windows, sills and frames below 5 foot level - complete removal.
- ... Doors and frames below 5 foot level - removal 4 inches back on edge of door; complete removal from frame.
- ... Handrails - complete removal.
- ... Spindles/Balusters - removal on surfaces adjacent to walking areas.
- ... Stair Treads - removal 4 inches back from lip on top of tread and from lip to riser on bottom side.
- ... Other chewable surfaces below 5 foot level - removal 4 inches back from edge.

NOTE: Repainting a surface with a non-lead paint without complete removal of the existing lead paint hazard shall not be deemed to be satisfactory compliance.

TIGHT LEAD PAINT surfaces which do not require removal include: walls in good condition without broken areas, baseboards, skirtboards on stairways, step risers and any other surface below the 5 foot level not presenting a chewable surface.

IN LIEU OF REMOVAL of the lead paint as specified above, the surface may be covered with approved durable material, such as metal, hard fiber board, tile, plastic board, or any other material approved by the Housing Authority.

IF YOU INTEND TO REPAINT, do not apply fresh paint until the areas from which the lead-based paint was removed are reinspected and approved by the Housing Authority. After consent is received, any paint safe for interior use may be applied, 0.5% lead or less.

2. KITCHEN

2.1 Kitchen Area Must Be Present.

Note: A kitchen is an area used for preparation of meals. It may be either a separate room or an area of a larger room (for example, a kitchen area in an efficiency apartment).

2.2-2.9 Same as explanations for "Living Room" with the following modifications.

2.2 Note: the requirement is that at least one grounded outlet and one permanent light fixture are present and working.

2.5 Note: the absence of a window in the kitchen is acceptable; however, no window requires an outside ducted range hood.

2.10 Stove or Range With Oven.

Both an oven and a stove (or range) with top burners must be present and working. Hot plates are not acceptable substitutes for these facilities.

An oven is not working if it will not heat. To be working a stove or range must have all burners working and knobs to turn them off and on. Under "working conditions" also look for hazardous gas hook-ups evidenced by strong gas smells.

Possible defects are: marked, dented, or scratched surfaces; cracked burner ring; limited size relative to family needs.

2.11 Refrigerator.

A refrigerator must be present and working. A refrigerator is not working if it will not maintain a temperature low enough to keep food from spoiling over a reasonable period of time.

Possible defects include: broken or missing interior shelving; dented or scratched interior or exterior surfaces; deterioration of door seal; loose door handle.

2.12 Sink.

A permanently attached kitchen sink must be present in the kitchen or kitchen area. A sink in a bathroom or a portable basin will not satisfy this requirement. A sink is not working unless it has running hot and cold water from the faucets and a properly connected and properly working drain (with a "gas trap").

Possible defects include: dripping faucet; marked, dented, or scratched surface; slow drain; missing or broken drain stopper.

2.13 Space for Storage and Preparation of Food.

A minimum of 4' of floor and wall cabinets is required for a one(1) bedroom unit. Add 1' for each additional bedroom.

3. BATHROOM

3.1 Bathroom Must Be Present.

The minimum requirement for a bathroom is a separate room with toilet, washbasin and tub or shower.

3.2-3.9 Explanation for these items is the same as that provided for “Living Room” with the following additions:

3.2 Electricity.

The requirement is that at least one permanent light fixture is present and working. If outlet is present, it must be ground fault.

3.3 Electrical Hazards.

In addition to the previously mentioned hazards, outlets that are located where water might splash or collect are considered an electrical hazard.

3.5 Window Condition.

If no window is present, a ventilation system must be present. (See item 3.12)

3.7 Walls must be sound with no holes, cracks, loose or missing parts, unpainted surfaces, peeling paint.

See 1.7 for unsound or hazardous conditions. Include under unsound or hazardous defects the following: broken or loose tile; deteriorated grouting at tub/wall and tub/floor joints or tiled surfaces; water stains.

3.8 Floor Condition.

All floors must be sound and covered with waterproof material such as sheet vinyl, linoleum or ceramic tile.

Include under unsound or hazardous defects the following: missing floor tiles; water stains (see 1.8).

3.9 Flush Toilet in Enclosed Room in Unit.

The toilet must be contained within the dwelling unit and be available for the exclusive use of the occupants of the unit (i.e., outhouses or facilities shared by occupants of other dwelling units are not acceptable). It must allow privacy.

Not working means: the toilet is not connected to a water supply; it is not connected to a sewer drain; it is clogged; the connections (or vents or traps) are faulty to the extent that severe leakage of water or escape of gases occurs; the flushing mechanism does not function properly.

3.10 Fixed Wash Basin or Lavatory in Unit.

The wash basin must be permanently installed (i.e., portable wash basin does not satisfy this requirement). Also, a kitchen sink can not serve as the bathroom wash basin.

Not working means: the wash basin is not connected to a system that will deliver hot and cold running water; it is not connected to a properly operating drain; the connectors (or vents or traps) are faulty to the extent that severe leakage of water or escape of sewer gases occurs.

No chipped or broken fixtures or tile surfaces will be accepted.

3.11 Tub or Shower Unit.

Not working covers the same requirements detailed above for wash basin (3.10).

No chipped or broken fixtures or tile surfaces will be accepted.

3.12 Ventilation.

Working vent systems include: ventilation shafts (non-mechanical vents) and electric fans. Electric vent fans must function when switch is turned on.

Exhaust vents must be vented to the outside, attic or crawlspace.

4. OTHER ROOMS USED FOR LIVING

4.2 Electricity/Illumination.

The room must have a means of natural or artificial illumination such as a permanent light fixture, wall outlet present or light from a window in the room.

For staircases, the adequacy of light and condition of the stair treads and railings is covered under Part 8 (General Health and Safety),

5. ALL SECONDARY ROOMS (rooms not used for living)

Any rooms not used for living must meet all safety and health codes.

6. BUILDING EXTERIOR

6.1 Condition of foundation should be sound and have the capacity to properly support the building and keep ground water out of basement under normal rainfall conditions.

“Unsound or hazardous” means foundations with severe structural defects indicating the potential for structural collapse; or foundations that allow significant entry of ground water (for example, evidenced by flooding of basement).

6.2 Condition of stairs, rails and porches should be sound and free from hazards.

“Unsound or hazardous” means: stairs, porches, balconies or decks with severe structural defects; or broken, rotting or missing steps; or absence of a handrail when there are extended lengths of steps (i.e., generally four or more consecutive steps); or absence of or insecure railings around a porch or balcony which is approximately 30 inches or more above the ground.

6.3 Condition of roof and gutters should be structurally sound and free from hazards.

“Unsound or hazardous” means: the roof has serious defects such as serious buckling, sagging indicating the potential of structural collapse. There are holes or other defects that would result in air or water infiltration (in most cases exterior defects will be reflected in surface defects with the unit; e.g., buckling, staining, water damage). The gutters, downspouts and soffits (area under the eaves) show serious decay and have allowed the entry of significant air or water into the interior of the structure. Gutters and downspouts are required.

6.4 Condition of Exterior Surfaces.

The exterior wall structure and surface should be sound and free from serious defects.

“Unsound or serious defects” include severe buckling, bowing or leaning, large cracks, falling or missing pieces of masonry, significant deterioration of portions of the exterior wall(s) which would allow water and severe amounts of air to enter the unit or large holes or defects that would result in vermin infestation.

6.5 Condition of Chimney.

The chimney should be sound and not be leaning or showing evidence of significant disintegration (i.e., missing bricks).

6.6 Lead Paint: Exterior Surfaces.

All surfaces must be free of loose and chipping paint.

Exterior surfaces include: walls, stairs, decks, porches, railings, windows and doors.

See discussion of Lead Paint (item 1.9, interior surfaces) for Living Room, for explanation of regulations for treatment or covering of surfaces not in compliance.

7. HEATING AND PLUMBING

7.1 Adequacy of Heating Equipment.

“Adequate heat” means that the heating system is capable of delivering enough heat to assure a healthy environment in the unit (appropriate to the climate). Space heaters are not acceptable.

Portable electric room heaters or kitchen stoves or ranges with a built-in heat unit are not acceptable as a primary source of heat.

“Directly or indirectly to all rooms used for living” means:

- “directly” means that each room used for living has a heat source (e.g., a radiator, a working hot air register or baseboard heat).
- “indirectly” means heat can enter easily from an adjacent room.

- 7.2 “Other unsafe conditions” include: breakage or damage to heating system such that there is a potential for fire or other threats to safety; improper connection of flues allowing exhaust gases to enter the living area; improper installation of equipment (e.g., proximity of fuel tank to heat source, absence of safety devices); indications of improper use of equipment (e.g., evidence of heavy build-up of soot, creosote, or other substance in the chimney); disintegrating equipment; combustible materials near heat source or flue.

- 7.3 Ventilation and Adequacy of Cooling.

There must be adequate air flow in the unit.

Windows must be operable as designed.

“Working cooling equipment” includes: central (fan) ventilation system; room or central air conditioning.

- 7.4 Hot Water Heater.

Hot water heater must be present and properly operating. It must be located in an area free from hazards.

“Location presents hazard” means that the gas or oil heater is located in living areas or closets where safety hazards may exist (e.g., water heater located in very cluttered closet with cloth and paper items stacked against it).

Water heaters must have a temperature-pressure relief valve and discharge line (directed toward the floor or outside of the living area) as a safeguard against build-up of steam if the heater malfunctions. If not, they are not properly equipped.

Gas or oil-fired hot water heaters must be vented into a properly installed chimney or flue outside. Electric hot water heaters do not require venting.

7.5 Water Supply.

Unit must have an adequate water supply that is connected to the city's public water system.

7.6 Plumbing.

Unit must have adequate plumbing that is free of leaks or corrosion.

"Major leaks: means that main water drain and feed pipes (often located in the basement) are seriously leaking.

"Corrosion" (causing serious and persistent levels of rust or contamination in the drinking water) can be determined by observing the color of the drinking water at several taps. Badly corroded pipes will produce noticeably brownish water.

7.7 Sewer Connection

The unit must be connected to the city's public sewer system and be properly working.

The following conditions constitute "evidence of sewer back up": strong sewer gas smell in the basement or outside of unit; numerous clogged or very slow drains.

8. GENERAL HEALTH AND SAFETY

8.1 Access to Unit.

There must be direct access to the unit rather than access through another unit.

"Through another unit" means that access to the unit is only possible by means of passage through another dwelling unit.

8.2 Exits.

There must be an acceptable fire exit.

"Acceptable fire exit" means that the building must have an alternative means of exit in case of fire that meets local or state regulations; this could include:

- An operable window if the unit is on the first floor or second floor or easily accessible to the ground.
- A back door opening onto a porch with a stairway leading to the ground.
- Fire escape, fire ladder, or fire stairs.

“Blocked” means that the exit is not usable due to conditions such as debris, storage, door or window nailed shut, broken lock.

Exits must meet local or state requirements and be considered adequate by the appropriate local officials.

8.3 Evidence of Infestation.

The unit should be free from rats or severe infestation by mice or vermin.

“Presence of rats, or severe infestation by mice or vermin” (such as roaches) is evidenced by: rat holes, droppings, rat runs, numerous settings of rat poison.

8.4 Garbage and Debris.

The unit should be free from a heavy accumulation of garbage and debris, both inside and outside.

“Heavy accumulation” means large piles of trash and garbage, discarded furniture, and other debris (not temporarily stored awaiting removal) that might harbor rodents. This may occur inside the unit, in common areas, or outside. It usually means a level of accumulation beyond the capacity of an individual to pick up within an hour or two.

8.5 Refuse Disposal.

The unit must contain adequate, covered facilities for temporary storage and disposal of food wastes, approvable by a local agency.

“Adequate covered facilities: includes: trash cans with covers, garbage chutes, “dumpsters: (i.e. large scale refuse boxes with lids), and trash bags (if approvable by local public agency). “Approvable by local public agency” means that the local Health and Sanitation Department (city) approves the type of facility in use.

8.6 Interior Stairs and Common Halls.

Interior stairs and common halls must be free from safety hazards.

“Loose, broken, or missing steps” is not acceptable. A handrail is required on extended sections of stairs (i.e., generally four or more consecutive steps). A railing is required on unprotected heights such as around stairwells.

“Other hazards” would be conditions such as bare electrical wires and tripping hazards.

8.7 Other Interior Hazards.

The interior unit must be free from any other hazards not specifically identified elsewhere.

Examples of other hazards might be: a broken bathroom fixture with a sharp edge in a location where it represents a hazard; a protruding nail in a doorway.

8.8 Elevators.

Must meet local licensing practices.

8.9 Site and Neighborhood Conditions.

The site and immediate neighborhood must be free from conditions which would seriously or continuously endanger the occupant's health and safety.

Examples of conditions that would "seriously and continuously endanger the health and safety of the residents" are:

- other buildings on, or near the property, that pose serious hazards (e.g., dilapidated shed or garage with potential for structural collapse);
- evidence of flooding or major drainage problems;
- evidence of mud slides or large land settlement or collapse;
- proximity to open sewage;
- unprotected heights (cliffs, quarries, mines, sandpits);
- fire hazards;
- abnormal air pollution or smoke which continues throughout the year and is determined to seriously endanger health;
- continuous or excessive vibration from traffic.

8.10 Lead Paint: Owner Certification.

If the owner is required to treat or cover any interior or exterior surfaces, the owner must furnish a certification that the work has been done in accordance with the requirements in these standards.

9. INSULATION

Insulate exterior frame walls with blown in or batts having a factor of not less than R-11.

Insulate all attic spaces and ceilings over heated rooms exposed to the outside temperatures. A minimum R factor shall be R-19 (Virginia Energy Information Center).

10. STORM WINDOWS

Install windows on all habitable room windows that are not insulated.

11. OTHER CODES

Notwithstanding any requirements listed herein, all housing units must comply with all applicable city and state housing, building and health codes.

Excerpts from the Code of Virginia, 1950, As Amended
Regarding the Creation of a Conservation Plan

§ 36-27. Eminent domain.

A. An authority shall have the right to acquire by the exercise of the power of eminent domain any real property which may be necessary for the purposes of such authority under this chapter after the adoption by it of a resolution declaring that the acquisition of the real property described therein is necessary for such purposes. An authority may exercise the power of eminent domain in the manner provided in Chapter 2 (§ 25.1-200 et seq.) of Title 25.1. The commissioners before which condemnation proceedings are conducted may hear evidence as to the value of the property including but not limited to the owner's appraisal and the effect that any pending application for a zoning change, special use permit application or variance application may have on the value of the property. The court may also determine whether there has been unreasonable delay in the institution of the proceedings after public announcement by the condemnor of a project that necessitates acquisition by the condemnor of a designated land area consisting of or including the land sought to be condemned. If the court determines that such unreasonable delay has occurred, it shall instruct the commissioners in such proceedings to allow any damages proved to their satisfaction by the landowner or landowners to have been sustained to his or their land during and because of such delay, in addition to and separately from the fair market value thereof, but such damages shall not exceed the actual diminution if any in fair market value of the land in substantially the same physical condition over the period of the delay. This provision shall not apply to any such public announcement made prior to July 1, 1960.

B. Prior to the adoption of any redevelopment plan pursuant to § 36-49 or any conservation plan pursuant to § 36-49.1, an authority shall send by certified mail, postage prepaid, to at least one of the owners of every parcel of property to be acquired pursuant to such plan a notice advising such owner that (i) the property owned by such owner is proposed to be acquired and (ii) such owner will have the right to appear in any condemnation proceeding instituted to acquire the property and present any defense which such owner may have to the taking. Such notice shall not be the basis for eligibility for relocation benefits. At the time it makes its price offer, the authority shall also provide to the property owner a copy of the appraisal of the fair market value of such property upon which the authority has based the amount offered for the property, which appraisal shall be prepared by a certified general real estate appraiser licensed in accordance with Chapter 20.1 (§ 54.1-2009 et seq.) of Title 54.1.

C. In all such cases the proceedings shall be according to the provisions of Chapter 2 (§ 25.1-200 et seq.) of Title 25.1, so far as they can be applied to the same. No real property belonging to the city, the county, the Commonwealth or any other political subdivision thereof may be acquired without its consent.

(1938, p. 453; Michie Code 1942, § 3145(12); 1958, c. 518; 1972, cc. 466, 782; 1989, c. 593; 1998, c. 880; 2000, c. 1029; 2001, c. 729; 2002, c. 272; 2003, c. 940.)

§ 36-49.1. Preparation and adoption of "conservation plan" by cities, counties and towns; authority to carry out "conservation project"; public hearing prior to approval of plan.

Whenever it appears to the governing body of any county, city or town that a portion of such city, county or town is deteriorating and may be eligible for conservation as provided by this section, and such governing body adopts a resolution so declaring, an authority may, in addition to other powers granted by this or any other law, investigate such portion of the locality and select slum, blighted, deteriorated or deteriorating areas and prepare a plan for the conservation thereof to be known as a "conservation plan." Upon approval of such plan by the governing body of the city, county or town, the authority is specifically empowered to do the following in order to carry out the work or undertaking as called for in such plan (hereinafter called a "conservation project"):

1. To acquire property within such areas which is blighted, designated for public use in the conservation plan, or the use or condition of which is inconsistent with the purposes of the conservation plan or the provisions of the zoning ordinance or code of the city, county or town;
2. To rehabilitate or clear property so acquired;
3. To provide for the installation, construction or reconstruction of streets, utilities, parks, parking facilities, playgrounds, public buildings and other site improvements essential to the conservation or rehabilitation planned;
4. To make land or improvements so acquired available to private enterprise or public agencies (by sale, lease or retention of ownership by the authority itself);
5. To assist the reconstruction of project areas by making loans or grants of funds received from any public or private source, for the purpose of facilitating the construction, reconstruction, rehabilitation or sale of housing or other improvements constructed or to be constructed on land situated within the boundaries of a conservation project;
6. To encourage and assist property owners or occupants within the conservation area to improve their respective holdings, by suggesting improved standards for design, construction, maintenance and use of such properties and offering encouragement or assistance in other ways including the power to lend money and make grants to owners or occupants, directed toward prevention and elimination of blight;
7. To acquire, construct or rehabilitate residential housing developments for occupancy by persons of low, moderate and middle income to be owned, operated, managed, leased, conveyed, mortgaged, encumbered or assigned by an authority. Income limits for such

persons shall be determined for each conservation project by an authority by resolution adopted by a majority of its appointed commissioners, shall be adjusted for household size and may be revised as an authority deems appropriate. In connection with a residential housing development, an authority shall have all rights, power and privileges granted by subdivision 4 of § 36-19, and shall establish rental rates in accordance with § 36-21. This subdivision shall apply only to (i) a redevelopment and housing authority created by joint resolution adopted by a city council of a city on September 27, 1940, and a board of aldermen of a city on October 1, 1940, and approved by the mayor of a city on October 3, 1940, and (ii) a redevelopment and housing authority created by a November 2, 1965, referendum, the initial commissioners of which were appointed by a February 23, 1966, board of supervisors resolution; and

8. The governing body shall conduct a public hearing prior to approval of a conservation plan.

(1964, c. 378; 1966, cc. 81, 418; 1968, c. 312; 1970, cc. 222, 491, 555, 596; 1972, c. 174; 1973, c. 29; 1974, c. 137; 1975, c. 532; 1976, c. 510; 1980, c. 133; 1988, cc. 572, 591.)

§ 36-50.1. Authority as to execution of "conservation plan" generally.

In connection with the execution of a conservation plan, an authority shall have all of the powers and responsibilities vested in or imposed upon it in connection with redevelopment projects under this chapter, with the exception that the power of eminent domain shall not be exercised in connection with a conservation project except to acquire (1) properties designated for public use in the conservation plan, or (2) properties which are determined by the authority to be in violation of the standards for design, construction, maintenance and use of property set out in the conservation plan for the project in which such property is situate, and which have not been made to comply with such standards within one year after a written request to rehabilitate to project standards is given to the owner by the authority, or (3) properties as to which voluntary conveyance cannot be effected in the course of the execution of the conservation plan because of the inability of the owners to convey marketable title, or (4) properties which are infeasible of rehabilitation or because of dilapidation, obsolescence, faulty arrangement or design, street or lot layout, deleterious land use or a combination thereof exert a blighting influence on adjacent properties or prevent proper development of land so as to inhibit or prevent accomplishment of the purposes of the conservation plan.

(1964, c. 378; 1972, c. 733.)

§ 36-51.1. Requirements for "conservation plan" generally.

An authority shall not initiate any conservation project under this law until the governing body (or planning agency or other public agency designated by it or empowered by law so to act) of each city or county having the power granted by § 36-49.1 in which any of the area to be covered by such project is situated, has approved a "conservation plan" which provides an outline for the conservation, development or redevelopment of the area, affording maximum opportunity for conservation, rehabilitation or redevelopment by private enterprise consistent with the ends to be achieved, and is sufficiently complete to indicate (1) its relationship to definite local objectives as to appropriate land uses and improved traffic, public transportation, public utilities, recreational and community facilities and other public improvements; (2) any conditions and limitations on acquisition of property; (3) proposed land uses for the properties to be acquired; (4) any conditions and limitations, including time limitation, under which property shall be made available for rehabilitation or redevelopment by public or private enterprise (by sale, lease or retention by the authority itself); (5) standards of design, construction, maintenance, and use of property and other measures to be taken or recommended toward elimination and prevention of blight; (6) the method for the temporary relocation of any persons living in such area who will be displaced in accordance with the plan, as well as the method of providing (unless already available) decent, safe and sanitary dwellings in such city or county substantially equal in number to the number of substandard dwellings to be cleared from the area, at rents within the financial reach of the income groups displaced from such substandard dwellings; (7) any limitation on the length of time within which project activities can be undertaken; (8) a procedure for administrative review of the determination at staff level and prior to a final determination by the authority under § 36-50.1 (2) that an individual property is in violation of project standards and, therefore, subject to condemnation; and (9) the procedure by which such conservation plan may be amended.

(1964, c. 378; 1966, c. 81.)